

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

ALEK SCHOTT,

Plaintiff,

JOEL BABB, in his individual and official
capacity; MARTIN A. MOLINA III, in
his individual and official capacity; JAVIER
SALAZAR in his individual and official
Capacity; and BEXAR COUNTY, TEXAS.

Defendant.

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Civil Action No. 5:23-cv-706

**DEFENDANTS' RESPONSES AND OBJECTIONS TO PLAINTIFF'S
REQUEST FOR PRODUCTION**

TO: Plaintiff Alek Schott, By and through his attorney of record Christen M. Hebert, Institute of Justice,
816 Congress Avenue, Suite 960, Austin, Texas 78701.

NOW COMES DEFENDANTS in the above-styled and numbered complaint and serve the
attached Responses and Objections to Plaintiff's Request for Production.

Respectfully submitted,

JOE D. GONZALES
Bexar County Criminal District Attorney

By: /s/ Susan Bowen

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CERTIFICATE OF SERVICE

I hereby certify on the 2nd day of October 2023, a true and correct copy of Defendants Responses and Objections to Plaintiff's Request for Production has been served through Electronic Mail in accordance with the Federal Rules of Civil Procedure on the following:

Attorney of Record Christen M. Hebert,
Institute of Justice,
816 Congress Avenue, Suite 960,
Austin, Texas 78701.

Christie Hebert <chebert@ij.org>

By: /s/ Susan Bowen
SUSAN BOWEN

PLAINTIFF'S REQUESTS FOR PRODUCTION

THE DOCUMENTS MAY BE INSPECTED AT THE OFFICES OF THE BEXAR COUNTY DISTRICT ATTORNEY'S OFFICE, 101 W. NUEVA, 4TH FLOOR, SAN ANTONIO TEXAS AT A MUTUALLY AGREEABLE TIME AND DATE.

ONCE THE CONFIDENTIALITY AND PROTECTIVE ORDER HAS BEEN AGREED TO AND SIGNED BY THE JUDGE, COPIES OF THE DOCUMENTS WILL BE PRODUCED.

RESQUEST FOR PRODUCTION 1- All documents and communications that mention Plaintiff, whether by using his full name, (Alek Schott), a variant on his name (e.g., Alek, Schott, Mr. Schott), or a term that in context refers to him (e.g., driver, suspect.)

RESPONSE:

Defendants have produced documents and communication that concern the matter that is the subject of this lawsuit that have been found after a thorough search. Defendants object to the production of any documents and communications that are not related to the matter that is the subject of the lawsuit.

See BC 159-160

REQUEST FOR PRODUCTION 2- All documents and communications that mention license plate number LJR4135.

RESPONSE:

Defendants have produced documents and communication that concern the matter that is the subject of this lawsuit that have been found after a thorough search.

See BC 159-160

REQUEST FOR PRODUCTION 3- All documents-including drafts and comments for revision-and communications that mention, were created during, or otherwise relate to CAD Master Incident Number BCSO-2022-0082748.

RESPONSE:

Defendants have produced documents and communications that concern the matter that is the subject of this lawsuit that have been found after a thorough search.

See BC 161-163

There are no drafts or comments for revision.

REQUEST FOR PRODUCTION 4- All documents-including drafts and comments for revision-and communications that mention, were created during, or otherwise relate to SPEARS Incident Summary BCS220059233.

RESPONSE: Defendants have produced documents and communications that concern the matter that is the subject of this lawsuit that have been found after a thorough search.

See BC 164-168

There are no drafts or comments for revision.

REQUEST FOR PRODUCTION 5- All bodycam and dashcam footage from Defendant Babb and Defendant Molina for February 16, 2022, to April 16, 2022.

RESPONSE:

Please see BC173-318, BC319-380, BC381-422, BC423-437, BC438-448, BC449-457, BC458-476, BC477-492, BC493-504, BC505-514, BC515-522, BC523-528, BC529-533, BC534-537, BC538-540, BC541-542, BC542-649, BC650-675, BC676-684.

This footage contains information concerning persons who are not subject to this matter and this information should be considered **CONFIDENTIAL** and not produced to any person not involved in this litigation.

REQUEST FOR PRODUCTION 6- All communications and records of those communications between Defendant Babb and any other BCSO employee on March 16, 2022.

RESPONSE:

Defendants have produced documents and communication that concern the matter that is the subject of this lawsuit that have been found after a thorough search. Defendants object to the production of any communications that are not related to the matter that is the subject of the lawsuit.

Please see BC169-171

REQUEST FOR PRODUCTION 7- All communications and records of those communications, between Defendant Molina and any other BCSO employee on March 16, 2022.

RESPONSE:

Defendants have produced documents and communication that concern the matter that is the subject of this lawsuit that have been found after a thorough search. Defendants object to the production of any communications that are not related to the matter that is the subject of the lawsuit.

Please see BC169-171

REQUEST FOR PRODUCTION 8- All communications and records of those communications, between Deputy Joe Greb and any other BCSO employee on March 16, 2022.

RESPONSE:

Defendants have produced documents and communication that concern the matter that is the subject of this lawsuit that have been found after a thorough search. Defendants object to the production of any communications that are not related to the matter that is the subject of the lawsuit.

Please see BC169-171

REQUEST FOR PRODUCTION 9- All communications, and records of those communications, between Sergeant Gamboa and any other BCSO employee on March 16, 2022.

RESPONSE:

Defendants have produced documents and communication that concern the matter that is the subject of this lawsuit that have been found after a thorough search. Defendants object to the production of any communications that are not related to the matter that is the subject of the lawsuit.

Please see BC169-171

REQUEST FOR PRODUCTION 10- All documents and communications that support Defendant Babb's contention that Plaintiff committed a traffic violation on March 16, 2022. *See* Compl. n.1, Babb A at 2:26; Dkt. No. 13-1 at 3.

RESPONSE:

Please see BC172

REQUEST FOR PRODUCTION 11- All documents and communications that support Defendant Babb's contention that he had reason to suspect there was something illegal in Plaintiff's car on March 16, 2022. *See* Compl. n.1, Babb A at 13:38; Dkt. No. 13-1 at 3.

RESPONSE:

Please see BC164-168 and the bodycam and dashboard videos.

REQUEST FOR PRODUCTION 12- All documents and communications that support Defendant Molina's contention that a drug dog, Maximus, gave a positive alert on Plaintiff's car on March 16, 2022. See Compl. n.1, Molina at 2:40; Dkt. No. 13-1 at 4.

RESPONSE:

Please see BC164-168. See also the Response to Request for Production No. 5.

REQUEST FOR PRODUCTION 13- If you possess any evidence, other than documents produced in responses to requests 1-11, that Plaintiff committed a traffic violation or that Defendant Babb had reason to suspect Plaintiff of a crime on March 16, 2022, produce that evidence.

RESPONSE: No Responsive Documents.

REQUEST FOR PRODUCTION 14- All warrants that any BCSO officer has ever obtained to search Plaintiff, his vehicle, or his property.

RESPONSE: No Responsive Documents.

REQUEST FOR PRODUCTION 15- All documents evincing the training, certification, qualifications of Defendant Babb and Defendant Molina for the entirety of their careers as peace officers. This request includes, but is not limited to, material provided as part of Texas Commission of Law Enforcement training, provided by BCSO, or provided by private third parties on how to perform traffic stops, criminal interdiction, drug dog sniffs, and vehicle searches.

RESPONSE: The TCOLE Training Records and Certificates of Training for both Deputy will be produced.

REQUEST FOR PRODUCTION 16- All documents and communications reflecting complaints or disciplinary actions against Defendant Babb or Defendant Molina for the entirety of their employment with BCSO.

RESPONSE: Defendants objects to producing all complaints for the entirety of the Deputy Babb and Molina's career that are not related to traffic stops and that may not have been reduced to writing.

Deputy Babb and Molina's personnel files will produce that will indicate disciplinary actions taken against the Deputies.

REQUEST FOR PRODUCTION 17- For any complaint about actions taken by a BCSO officer other than Defendant Babb and Defendant Molina during a traffic stop and vehicle search, produce documents evidencing the nature of the complaint and action taken by the County-such as employee counseling report, a performance report, or a summary of complaint and action taken.

RESPONSE: Defendant objects to producing general complaints brought against traffic deputies of the Bexar County Sheriff's Office. Plaintiff's Original Complaint concerns the Criminal Interdiction Unit. Defendants are currently working to determine if such complaints have been made against other Deputies in the Criminal Interdiction Unit.

Any documents produced responsive to the Request contain information concerning persons who are not subject to this matter. This information should be considered CONFIDENTIAL and not produced to any person not involved in this litigation.

REQUEST FOR PRODUCTION 18- All documents concerning Maximus, the dog that sniffed Plaintiff's car on March 16, 2022. This request includes, but is not limited to, training curriculum, training manuals, certification records, score sheets, handler notes, deployment record, field performance documents, veterinary records, and similar documents.

RESPONSE: Defendants are unable to get all records on Maximus in that the company from the dog was purchased is no longer in business and its records are not available.

Any Bexar County Sheriff's Office documents concerning Maximus will be produced.

REQUEST FOR PRODUCTION 19- All documents and communications concerning the reliability and performance of BCSO's K9 Unit or of individual dogs or K9 handlers. This request includes, but it is not limited to, deposition transcripts, affidavits, and declarations.

RESPONSE: Defendants are not sure what information is being sought.

Defendants would not be aware of issues of reliability and performance of the BCSO's K9 Unit that might be brought up in a criminal case.

Defendants are not aware of any depositions, affidavits or declarations in regard to the BCSO K9 Unit.

REQUEST FOR PRODUCTION 20- All documents and communications relating to the maintenance and inspection of the patrol vehicle driven by Defendant Babb on March 16, 2022, and its dash camera from February 1, 2022, to April 15, 2022.

RESPONSE: The Fleet and Video Logs are currently being bate stamped.

REQUEST FOR PRODUCTION 21- All documents and communications relating to Defendant Babb's contention that the dash camera on his patrol vehicle was inoperable on March 16, 2022.

RESPONSE: The Fleet and Video logs are currently being bate stamped.

REQUEST FOR PRODUCTION 22- All documents and communications evincing the County's BCSO's K9 policy. This request included, but is not limited to, general orders, rules, standard operating procedures, memoranda, and similar documents on how drug detecting dogs are selected, trained, certified, qualified, evaluated, used, and managed.

RESPONSE: The K9 policy will be produced.

REQUEST FOR PRODUCTION 23- All documents and communications other than the current Sheriff's Manual Policy and Procedure that govern BCSO officers' behavior during traffic stops, roadside investigations, and vehicle searches. This request includes, but is not limited to, general orders, rules, standard operating procedures, memoranda, and similar documents.

RESPONSE: The Sheriff's Manual of Policy and Procedure governs the BCSO Officers behavior during a traffic stop, roadside investigation and vehicle searches.

REQUEST FOR PRODUCTION 24- All documents and communications stating the County's or BCSO's policies relating to criminal interdiction. This request includes, but is not limited to, general orders or standard operating procedures upon which BCSO officers rely in the course of their duties.

RESPONSE: No responsive documents concerning "criminal interdiction".

REQUEST FOR PRODUCTION 25- All documents and communications stating the County's or BCSO's policies relating to the use and maintenance of bodycams, dashcams, and footage from those cameras. This request includes, but is not limited to, general orders or standard operating procedures upon which BCSO officers rely in the course of their duties.

RESPONSE: The Body Worn Camera policy will be produced.

REQUEST FOR PRODUCTION 26- All documents and communications setting forth the official purpose of BCSO's Criminal Interdiction Unit and K9 Unit.

RESPONSE: No responsive documents

REQUEST FOR PRODUCTION 27- All documents that the County or BCSO use to track traffic stops and vehicle searches. This request includes, but it is not limited to, running lists, active databases, and regular reports, whether created for internal tracking or external use.

RESPONSE: Traffic Stop Data from January 1, 2020 to the present will be produced. Defendants have not produced every report from every traffic stop in the designated time period as that information is voluminous, expensive to gather and produce and may not be relevant to any of Plaintiff's claims.

The documents that may be produced in response to this request may contain information concerning persons who are not subject to this matter. This information should be considered CONFIDENTIAL and no produced to any person not involved in this litigation.

REQUEST FOR PRODUCTION 28- ALL SPEARS Incident Summaries and corresponding incident reports by Defendant Babb or Defendant Molina from January 1, 2022 to May 2,2022. *See* Dkt. No. 13-1.

RESPONSE: Defendants are currently bate stamping the documents responsive to this request.

These reports contains information concerning persons who are not subject to this matter. This information should be considered CONFIDENTIAL and not produced to any person not involved in this litigation.

REQUEST FOR PRODUCTION 29- ALL SPEARS Incident Summaries and corresponding incident reports concerning traffic stops for drifting or touching the fog line. *See* Dkt. No. 13-1.

RESPONSE: Defendants are currently bate stamping the documents responsive to this request.

These documents contain information concerning persons who are not subject to this matter. These information should be considered CONFIDENTIAL and not produced to any person not involved in this litigation.

REQUEST FOR PRODUCTION 30- All memoranda of understanding and contractual agreements between the County or BCSO and other entities, governmental or otherwise, that facilitates or is designed to facilitate BCSO's criminal interdiction work.

RESPONSE: Defendants are currently bate stamping the documents responsive to this request.

These documents contains information concerning persons and other governmental entites who are not subject to this matter. This information should be considered CONFIDENTIAL and no produced to any person not involved in this litigation.

REQUEST FOR PRODUCTION 31- All documents and communications relating to BCSO's participation in Texas's Selective Traffic Enforcement Program (STEP).

RESPONSE: A review of Plaintiff's Original Complaint finds no reference to the Texas Selective Traffic Enforcement program. Therefore, this request is not relevant to Plaintiff's claims or Defendants' defenses.

REQUEST FOR PRODUCTION 32- All documents and communications related to the several Public Information Act requests submitted by Plaintiff and by his attorney Joshua Windham before this case was filed-including communications between any BCSO officer and the person responding to such requests. The numbers of those requests are:

- R010361-071822
- S004068-040622
- S005565-012423
- R012425-030223
- S005692-021023
- S005563-012423
- S005550-012323
- S005549-012323

This request does not seek documents and communications already available in the Bexar County Open Records Portal.

RESPONSE:

Defendants have reviewed Plaintiff's Original Complaint and cannot identify which claim this request would address. If Plaintiff has a complaint concerning the open records process, then the laws regarding the Public Information Request should be followed.

In addition, there may communication between the Sheriff's Office and the PIA attorney which would be privilege by attorney-client communication.

REQUEST FOR PRODUCTION 33- All documents relating to document-retention policies that apply to documents within BCSO's possession.

RESPONSE: The Bexar County Sheriff's Office follows the Texas State Records Retention Schedule- Retention Schedule for Records of Public Safety Agencies. These Schedules can be found on the Internet.

REQUEST FOR PRODUCTION 34- All organizational charts showing BCSO's structure and chain of command.

RESPONSE: Said document will be produced.

REQUEST FOR PRODUCTION 35- All BCSO Training Academy "annual internal audits and other risk evaluations" referenced in Sheriff's Manual of Policy and Procedure (Aug. 3, 2021 version) § 2.11, to the extent those audits and risk evaluations contain information about BCSO officers' performance of their law enforcement duties.

RESPONSE: Defendants are currently baste stamping the documents responsive to this request. .

REQUEST FOR PRODUCTION 36- All documents-not including any privileged information or attorney work product- that you contend support any affirmative defense raised in this matter or that you otherwise intend to rely on at summary judgement or at trial.

RESPONSE: At this time, all documents concerning the matter that is the subject of this litigation that Defendants consider to be relevant and that will be used at trial will be produced.